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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/201,107	11/30/98	MAYAUD C	CM3-CON

TM02/1107

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EXAMINER	
KEMPER, M	
ART UNIT	**PAPER NUMBER**
2165	13

DATE MAILED: 11/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/201107	Mayaud
Examiner	**Group Art Unit**
Kemper	2165

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☒ Responsive to communication(s) filed on 8/24/00.

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 70-85 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 70-85 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 79-83 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Goldman et al., patent number 5,542,420.

Goldman et al. teaches the patient history record display system as shown in col. 2, lines 5-20, col. 2, line 65 - col. 5. line 25, col. 6, line 9 - col. 7, line 4, col. 8, line 61 - col. 9, line 45, col. 10, line 51 - col. 11, line 15).

3. Claim 84 is rejected under 35 U.S.C. 102(a) as being clearly anticipated by Faden et al., "Privacy and Security of Personal Information in a New Health Care System" JAMA 11/93 .

Faden et al. teaches the access control software (see at least page 8).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al., patent number 5,867,821 in view of Faden et al., "Privacy and Security of Personal Information in a New Health Care System" JAMA 11/93.

Ballantyne et al. teaches the access control software (figs. 9a-9c, col. 7, line 66 - col. 8, line 65). Faden et al teaches providing authorized access at authorized times (see at least page 8). It would have been obvious to one having ordinary skill in the art at the time of the invention to have implemented a condition of authorized access at authorized times as in Faden et al. since the time limitation would have provided further protection of records in computer systems as taught by Faden in the computer system of Ballantyne et al.

6. Claims 70, 76-77, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox, "RxWriter", Journal of Family Practice, v.37, n.3, p. 296(2), 9/1993.

Fox describes RxWriter which includes patient identifying data, drug identification data, and drug quantification data. Fox also describes a library of drugs, drug formulary information (generic drugs) which are displayed prior to completion of the prescription, however, these are stated as not included in RxWriter. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to have implemented the library and drug formulary information since this information would have improved the efficiency and thoroughness of the system as directly suggested by Fox.

7. Applicant's arguments filed on 2/29/00 have been fully considered but they are not persuasive.

The applicant now argues that Goldman et al. fails to teach a prescription history record comprising a patient identifier, a prescribed drug, at least one drug quantifier for the prescribed drug and a treatment date for each treatment. Goldman et al. clearly teaches displaying a patient identifier (see at least fig. 7 ID, col. 11, lines 40-42), a prescribed drug (see at least col. 2, lines 5-10, col. 3, lines 45-50, col. 4, lines 12-15,25-30), at least one drug quantifier for the prescribed drug (see at least col. 2, lines 5-20, col. 4, lines 30-40, col. 6, lines 55-67, col. 7, lines 55-60) and a treatment date for each treatment (see at least col. 4, lines 35-40 and where the date of treatment is inherently included since this information is necessary for patient history purposes) and where all of the information is provided for display on the patient file access unit (col. 9, lines 5-10).

The applicant also argues that Faden does not teach that access control is maintained by reference to record access specifications provided in a security profile in a pre-authorization file. Faden teaches privacy and security of personal information in an automated patient record system with the pre-authorization file (being used to control access to the patient's data) (see at least page 8 (or section labeled as "Security of Health Information Systems" starting on page 7) which teaches "[w]ith computerized systems, tailored selection of data items from an individual health records is easy, thereby making it possible to share only the information that is necessary to the inquiry at hand. With the establishment of appropriate access requirements, more accurate, reliable, and cost-efficient protection of health care information can be achieved that with nonautomated system"..."The steps identified by the National Research Council as necessary for

achieving greater computer security and trustworthiness include quality control, access control on program code as well as data, user identification and authentication,..."). The article also teaches the record access specifications (determining which parties can access what data during what period of time) provided in a security profile in a pre-authorization file (see at least page 8, referenced above in addition to "[t]hese protections will be most effective if privacy is addressed directly at the outset in developing electronic systems. They should guarantee that only authorized persons are able to access records for authorized purposes at authorized times". These files and programs are necessary for ensuring the security of the system.

The applicant also argues that Fox does not teach drug formulary information identifying a benefit plan recommended drug (known in the art to include generic drugs), drug contraindication review routine or library of drugs. These were addressed in the rejection where Fox clearly suggests that the use of these features would provide improved efficiency. As to the statement that Fox is a non-enabling reference, one of ordinary skill in the art would know of the equipment (computer implemented software) and the techniques to be used (listing generation and drug interaction comparison already known in the art) in order to implement the modifications directly suggested.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5,832,450 (abstract, summary); 5,519,607 (abstract, summary); 5,737,539 (claims).

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)
(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Kemper, whose telephone number is 703-305-9589. The examiner can normally be reached on Monday-Thursday from 8:30-6:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vince Millin, can be reached at 703-308-1065.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 703-305-3900.

November 2,2000

M. Kemper
Primary Examiner
Art Unit 2165